

IN THE SENATE

SENATE BILL NO. 1358, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO BULLYING; AMENDING SECTION 18-917A, IDAHO CODE, TO PROVIDE APPLICATION OF THE SECTION TO ADDITIONAL BEHAVIOR, TO DEFINE A TERM, TO REVISE WHAT ACTION SHALL BE AN INFRACTION AND TO REPLACE DISCRETIONARY LANGUAGE WITH MANDATORY LANGUAGE; AMENDING SECTION 33-512, IDAHO CODE, TO PROVIDE ADDITIONAL DUTIES REGARDING GOVERNANCE OF SCHOOLS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 12, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1208B, IDAHO CODE, TO PROVIDE CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIMIDATION, BULLYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOPMENT AND TO PROVIDE EXCEPTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-917A, Idaho Code, be, and the same is hereby amended to read as follows:

18-917A. STUDENT HARASSMENT -- INTIMIDATION -- BULLYING. (1) No student and no minor present on school property, in a school vehicle or at school activities, regardless of location, shall intentionally commit, or conspire to commit, an act of harassment, intimidation, ~~or~~ bullying or cyberbullying against ~~another~~ a student.

(2) As used in this section, "harassment, intimidation or bullying" means any intentional gesture, or any intentional written, verbal or physical act or threat by a student that:

(a) A reasonable person under the circumstances should know will have the effect of:

(i) Harming a student; or

(ii) Damaging a student's property; or

(iii) Placing a student in reasonable fear of harm to his or her person; or

(iv) Placing a student in reasonable fear of damage to his or her property; ~~or~~ and

(b) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for a student.

~~An act of harassment, intimidation or bullying may also be committed through the use of a land line, car phone or wireless telephone or through the use of data or computer software that is accessed through a computer, computer system, or computer network.~~

(3) "Cyberbullying" is an act of harassment, intimidation or bullying committed through the use of a landline, car phone or wireless telephone, or through the use of data or computer software that is accessed through a computer system or computer network, which is sufficiently severe, persistent

1 or pervasive that it creates an intimidating, threatening or abusive educa-
 2 tional environment for a student.

3 (4) A student who personally violates violation of any provision of
 4 this section may shall be guilty of an infraction.

5 SECTION 2. That Section 33-512, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 33-512. GOVERNANCE OF SCHOOLS. The board of trustees of each school
 8 district shall have the following powers and duties:

9 (1) To fix the days of the year and the hours of the day when schools
 10 shall be in session. However:

11 (a) Each school district shall annually adopt and implement a school
 12 calendar which provides its students at each grade level with the fol-
 13 lowing minimum number of instructional hours:

| Grades | Hours |
|--------|-------|
| 9-12 | 990 |
| 4-8 | 900 |
| 1-3 | 810 |
| K | 450 |

14
 15
 16
 17
 18
 19 (b) School assemblies, testing and other instructionally related ac-
 20 tivities involving students directly may be included in the required
 21 instructional hours.

22 (c) When approved by a local school board, annual instructional hour
 23 requirements stated in paragraph (a) may be reduced as follows:

24 (i) Up to a total of twenty-two (22) hours to accommodate staff
 25 development activities conducted on such days as the local school
 26 board deems appropriate.

27 (ii) Up to a total of eleven (11) hours of emergency school clo-
 28 sures due to adverse weather conditions and facility failures.

29 However, transportation to and from school, passing times between
 30 classes, recess and lunch periods shall not be included.

31 (d) Student and staff activities related to the opening and closing of
 32 the school year, grade reporting, program planning, staff meetings, and
 33 other classroom and building management activities shall not be counted
 34 as instructional time or in the reductions provided in paragraph (c) (i)
 35 of this section.

36 (e) For multiple shift programs, this rule applies to each shift (i.e.,
 37 each student must have access to the minimum annual required hours of
 38 instructions).

39 (f) The instructional time requirement for grade 12 students may be re-
 40 duced by action of a local school board for an amount of time not to ex-
 41 ceed eleven (11) hours of instructional time.

42 (g) The state superintendent of public instruction may grant an ex-
 43emption from the provisions of this section for an individual building
 44 within a district, when the closure of that building, for unforeseen
 45 circumstances, does not affect the attendance of other buildings within
 46 the district.

(2) To adopt and carry on, and provide for the financing of, a total educational program for the district. Such programs in other than elementary school districts may include education programs for out-of-school youth and adults; and such districts may provide classes in kindergarten;

(3) To provide, or require pupils to be provided with, suitable textbooks and supplies, and for advice on textbook selections may appoint a ~~textbook~~ curricular materials adoption committee as provided in section 33-512A, Idaho Code;

(4) To protect the morals and health of the pupils;

(5) To exclude from school, children not of school age;

(6) To prescribe rules for the disciplining of unruly or insubordinate pupils, including rules on student harassment, intimidation, ~~and~~ bullying and cyberbullying as defined in section 18-917A, Idaho Code, such rules to be included in a district discipline code adopted by the board of trustees and a summarized version thereof to be provided in writing at the beginning of each school year through means including, but not limited to, student handbooks, district or school websites, and existing communications to the teachers school personnel, parents and students in the district in a manner consistent with the student's age, grade and level of academic achievement.

(a) The district's policy against harassment, intimidation, bullying and cyberbullying shall include a provision affirming that school personnel shall intervene or facilitate intervention on behalf of students facing harassment, intimidation, bullying or cyberbullying in the school setting or when such act negatively impacts the student's educational environment, shall specifically designate persons to whom reports are to be made and shall include the procedure for school personnel, students, parents/legal guardians or other personnel to report harassment, intimidation, bullying or cyberbullying events or information.

(b) The board, through the school's administration, shall provide annual professional development on the issue of harassment, intimidation, bullying and cyberbullying consistent with section 33-1208B, Idaho Code. Training shall also be provided to noncertificated personnel consistent with employee levels of student interaction.

(c) The board's discipline policies relating to harassment, intimidation, bullying and cyberbullying shall include a series of graduated consequences including, but not limited to, parental notification, providing parents with a referral of the student to group or individual counseling, suspension and expulsion of the student and the possibility of reporting of criminal activity to local law enforcement authorities.

(7) To exclude from school, pupils with contagious or infectious diseases who are diagnosed or suspected as having a contagious or infectious disease or those who are not immune and have been exposed to a contagious or infectious disease; and to close school on order of the state board of health and welfare or local health authorities;

(8) To equip and maintain a suitable library or libraries in the school or schools and to exclude therefrom, and from the schools, all books, tracts, papers, and catechisms of sectarian nature;

(9) To determine school holidays. Any listing of school holidays shall include not less than the following: New Year's Day, Memorial Day, Indepen-

1 dence Day, Thanksgiving Day, and Christmas Day. Other days listed in section
 2 73-108, Idaho Code, if the same shall fall on a school day, shall be observed
 3 with appropriate ceremonies; and any days the state board of education may
 4 designate, following the proclamation by the governor, shall be school holi-
 5 days;

6 (10) To erect and maintain on each schoolhouse or school grounds a suit-
 7 able flagstaff or flagpole, and display thereon the flag of the United States
 8 of America on all days, except during inclement weather, when the school is
 9 in session; and for each Veterans Day, each school in session shall conduct
 10 and observe an appropriate program of at least one (1) class period remember-
 11 ing and honoring American veterans;

12 (11) To prohibit entrance to each schoolhouse or school grounds, to pro-
 13 hibit loitering in schoolhouses or on school grounds and to provide for the
 14 removal from each schoolhouse or school grounds of any individual or indi-
 15 viduals who disrupt the educational processes or whose presence is detrimen-
 16 tal to the morals, health, safety, academic learning or discipline of the
 17 pupils. A person who disrupts the educational process or whose presence is
 18 detrimental to the morals, health, safety, academic learning or discipline
 19 of the pupils or who loiters in schoolhouses or on school grounds, is guilty
 20 of a misdemeanor-;

21 (12) To supervise and regulate, including by contract with established
 22 entities, those extracurricular activities which are by definition outside
 23 of or in addition to the regular academic courses or curriculum of a public
 24 school, and which extracurricular activities shall not be considered to be a
 25 property, liberty or contract right of any student, and such extracurricular
 26 activities shall not be deemed a necessary element of a public school educa-
 27 tion, but shall be considered to be a privilege-;

28 (13) To govern the school district in compliance with state law and
 29 rules of the state board of education-;

30 (14) To submit to the superintendent of public instruction not later
 31 than July 1 of each year documentation which meets the reporting require-
 32 ments of the federal gun-free schools act of 1994 as contained within the
 33 federal improving America's schools act of 1994-;

34 (15) To require that all certificated and noncertificated employees
 35 hired on or after July 1, 2008, and other individuals who are required by
 36 the provisions of section 33-130, Idaho Code, to undergo a criminal history
 37 check shall submit a completed ten (10) finger fingerprint card or scan to
 38 the department of education no later than five (5) days following the first
 39 day of employment or unsupervised contact with students in a K-12 setting,
 40 whichever is sooner. Such employees and other individuals shall pay the cost
 41 of the criminal history check. If the criminal history check shows that the
 42 employee has been convicted of a felony crime enumerated in section 33-1208,
 43 Idaho Code, it shall be grounds for immediate termination, dismissal or
 44 other personnel action of the district, except that it shall be the right of
 45 the school district to evaluate whether an individual convicted of one (1)
 46 of these crimes and having been incarcerated for that crime shall be hired.
 47 Provided however, that any individual convicted of any felony offense listed
 48 in section 33-1208 2., Idaho Code, shall not be hired. For the purposes of
 49 criminal history checks, a substitute teacher is any individual who tem-
 50 porarily replaces a certificated classroom educator and is paid a substitute

1 teacher wage for one (1) day or more during a school year. A substitute
 2 teacher who has undergone a criminal history check at the request of one (1)
 3 district in which he has been employed as a substitute shall not be required
 4 to undergo an additional criminal history check at the request of any other
 5 district in which he is employed as a substitute if the teacher has obtained
 6 a criminal history check within the previous five (5) years. If the district
 7 next employing the substitute still elects to require another criminal his-
 8 tory check within the five (5) year period, that district shall pay the cost
 9 of the criminal history check or reimburse the substitute teacher for such
 10 cost. To remain on the statewide substitute teacher list maintained by the
 11 state department of education, the substitute teacher shall undergo a crimi-
 12 nal history check every five (5) years-;

13 (16) To maintain a safe environment for students by developing a system
 14 that cross-checks all contractors or other persons who have irregular con-
 15 tact with students against the statewide sex offender register-;

16 (17) To provide support for teachers in their first two (2) years in the
 17 profession in the areas of: administrative and supervisory support, mentor-
 18 ing, peer assistance and professional development.

19 SECTION 3. That Chapter 12, Title 33, Idaho Code, be, and the same is
 20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 21 ignated as Section 33-1208B, Idaho Code, and to read as follows:

22 33-1208B. CERTIFICATED PERSONNEL OBLIGATIONS FOR HARASSMENT, INTIM-
 23 IDATION, BULLYING AND CYBERBULLYING INFORMATION AND PROFESSIONAL DEVELOP-
 24 MENT. For the purposes of this section the terms "harassment, intimidation
 25 or bullying" and "cyberbullying" are as defined in section 18-917A, Idaho
 26 Code.

27 (1) In addition to board requirements to distribute information to stu-
 28 dents, reasonable efforts shall be made annually to distribute to parents
 29 and school staff the harassment, intimidation, bullying and cyberbullying
 30 policies and procedures enacted by school district or charter school boards
 31 pursuant to section 33-512(6), Idaho Code.

32 (2) School personnel shall intervene or facilitate intervention on be-
 33 half of students facing harassment, intimidation, bullying or cyberbully-
 34 ing in the school setting or when such acts negatively impact upon the stu-
 35 dent's educational environment. School principals or heads of schools, in
 36 coordination with other certificated personnel, shall annually review the
 37 school's policies and procedures on harassment, intimidation, bullying and
 38 cyberbullying and are responsible for the effective implementation of the
 39 policy.

40 (3) Certificated school personnel shall have completed a district-pro-
 41 vided, evidence-based professional development training to build skills to
 42 prevent, identify and respond to harassment, intimidation, bullying and cy-
 43 berbullying or may show proof of completion of approved anti-bullying pro-
 44 fessional development training that meets the requirements of the local dis-
 45 trict.

46 (4) Certificated school personnel shall report all cases that meet the
 47 definition of harassment, intimidation, bullying and cyberbullying to the
 48 school's administrative personnel to facilitate annual reporting require-
 49 ments as well as to facilitate intervention on behalf of the student. The

1 certificated employee's reporting shall include a statement of the action
2 taken by the certificated employee to intervene or facilitate intervention
3 on behalf of the student. The school's superintendent or head of schools for
4 a charter school shall annually report incidents of harassment, intimidat-
5 tion, bullying and cyberbullying to the state department of education.

6 (5) Nothing contained herein shall require schools to staff any non-
7 school related activities, functions or programs.

8 (6) Sources for model anti-bullying policies, professional develop-
9 ment and skill training and guidelines for annual reporting of material in-
10 cidents to the state department of education shall be set forth in rules pro-
11 mulgated by the state board of education.

12 (7) The provisions of this section shall not apply to home school set-
13 tings.

14 (8) Nothing in this section shall supersede or replace existing rights
15 or remedies under any other general or special law, nor shall this section
16 create a private right of action.